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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/422,046

10/20/1999

STEPHEN J. BROWN

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HEALTH HERO NETWORK, INC.

2000 SEAPORT BLVD.

SUITE 400

REDWOOD CITY, CA 94063

EXAMINER

MORGAN, ROBERT W

ART UNIT

PAPER NUMBER

3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/422,046	Applicant(s) BROWN, STEPHEN J.	
	Examiner Robert W. Morgan	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70,71,76,77,110-123,126-145,148-166,169-186 and 189 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70,71,76,77,110-123,126-145,148-166,169-186 and 189 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. In the response filed 1/24/07, the following has occurred: Claims 124, 125, 146, 147, 167, 168, 187 and 188 are withdrawn, claims 70, 71, 76, 77, 110, 111, 113, 116-123, 126-132, 137-145, 148-157, 161-166, 169-179, 181-186 and 189 are amended and claims 223-242 are canceled. Now claims 70, 71, 76, 77, 110-123, 126-146, 148-166, 169-186 and 189 are presented for examination.

Specification

2. The amendment filed 1/24/07 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The newly added recitation of “enabling a specific patient to choose when to receive a message from the central server” within claim 111 appears to constitute new matter. In particular, Applicant does not point to, nor was the Examiner able to find, any support for “a specific patient to choose when to receive a message from the central server” within the specification as originally filed. As such, Applicant is respectfully requested to clarify the above issues and to specifically point out support for the newly added limitations in the originally filed specification and claims.

Applicant is required to cancel the new matter in the reply to this Office action.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode

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contemplated by the inventor of carrying out his invention..

4. The specification is objected to under 35 U.S.C. § 112, first paragraph, because the specification, as originally filed, does not provide support for the invention as is now claimed for the reasons given in section 2 above.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 70-71, 77, 110, 112, 114, 116, 117, 120, 123, 126, 127, 132-134, 137, 138, 139, 140, 142, 145, 148, 149, 150, 151, 153, 155-156, 158, 161, 163, 164, 166, 169, 170, 173, 175-176, 178, 181, 183, 184, 186 and 189 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,803,625 to Fu et al. and U.S. Patent No. 4,838,275 to Lee in view of U.S. Patent No. 5,390,238 to Kirk et al.

As to claims 70, 117, 127, 138, 149, 150 and 170, Fu discloses a networked health-monitoring system (see Fig. 1), comprising:

(i) a plurality of remote patient sites corresponding to a plurality of patients (see Fig. 1, unit 60), each of the remote patient sites including

(a) at least one display (i.e. unit 68) (col. 5, lines 53-58);

(b) a data management unit configured to facilitate collection of patient health related data (i.e., event table and CPU 64) (col. 10, lines 1-14 and lines 28-61);

(c) at least one memory (i.e. unit 80) (see Fig. 2); and

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(d) stored program instructions for generating health-monitoring related information on the display (i.e. display unit 68 and software of the home unit) (col. 5, lines 56-57, col. 8, line 17 and col. 12, lines 1-24)

(ii) at least one central server connectable for communication with the data management unit at the each of the remote patient sites (see Fig. 1)

(b) each of the remote patient sites to establish a respective communication link with the central server (see: Fig. 1).

Fu does not explicitly disclose

(iii) at least one computer remotely located from the remote patient sites, remotely located from the central server and configured for signal communication with the central server, wherein the system is configured to allow a health care professional to cause information to be transmitted to at least one patient;

display to that patient at least one message at least some of the information caused to be transmitted by the healthcare professional;

(a) a healthcare professional to cause particular information related to a particular one of more of the patients to be transmitted from the computer to the central server;

(c) the central server to send the particular information to the remote patient sites of the particular patients in response to establishing the respective communication links; and

(d) presentation of at least one message within the particular information on the displays of the particular patient.

Lee discloses at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based

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on the patient health-related data collected at the remote patient sites (i.e. unit 118a) (see Fig. 1, col. 11, lines 54-56 and col. 13, lines 42-47).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (Lee: col. 5, lines 15-38).

Fu and Lee do not explicitly disclose display to that patient at least one message at least some of the information caused to be transmitted by the healthcare professional;

(a) a healthcare professional to cause particular information related to a particular one of more of the patients to be transmitted from the computer to the central server; and

(d) presentation of at least one message within the particular information on the displays of the particular patient.

Kirk teaches a health support system including a remotely located computer facility including the at least one central server wherein hardware and software of the central server automatically communicates with the data management units and at least one health care professional computer (col. 3, lines 3-11, lines 20-42). In addition, Kirk teaches that the central server can report results of the analysis of patient (32, Fig. 3) status to a doctor (24, Fig. 2), care provider (20, Fig. 2) or local monitoring services (12, Fig. 1) (see: column 5, lines 40-47).

Furthermore, Kirk teach that the health support unit (30, Fig. 3) interacts with the local central

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server (38, Fig. 3) receive medication and program schedule updates (see: column 5, lines 22-27 and column 3, lines 3-11). The Examiner considers the medication and program schedule updates (messages) to be sent by the doctor or pharmacist computer to the local server and then to the patient.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation for the motivation of utilizing a health care support system which economically provides medication control, wellness checking and patient data accumulation and reporting capability (Kirk: col. 1, lines 53-60).

As to Claims 117, 138 and 171, Fu does not explicitly disclose the system of claim 34, wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received.

However, Lee discloses wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received (col. 13, lines 5-15). In addition, Lee teaches that a report is standardized (col. 17, lines 20-40). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system configured to allow a health care professional to select which of a plurality of standardized reports is received as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As per claim 140 and 173, Fu does not explicitly disclose the claimed displaying at least one of (i) statistical information and (ii) trend information.

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However, Lee discloses wherein the report includes displayed formatted statistical information (col. 13, lines 12-17). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes displayed formatted statistical information as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As per claims 169 and 189, Fu does not explicitly disclose the claimed second user of the computer is a healthcare professional.

However, Lee discloses wherein the message is from the health care professional computer (col. 16, lines 40-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include messages from the health care professional computer as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to claims 71, 77, 110, 112, 114, 116, 120, 123, 126, 132-134, 137, 139, 142, 145, 148, 151, 153, 155-156, 158, 161, 163, 164, 166, 175-176, 178, 181, 183, 184 and 186, they are similar in scope to claims 70, 117, 127, 138, 140, 149, 150, 169, 170-171, 173 and 189 are rejected on the same basis.

7. Claim 76, 113, 136, 159 and 179 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 34 and 127 above, and further in view of Beckers, Pat. No. 5,019,974.

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As to Claim 76, Fu, Lee and Kirk do not explicitly teach the claimed stored program instructions further enable displaying of pictorial health related information.

However, Beckers discloses wherein the handheld device is capable of displaying pictorial health-monitoring related information (see Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying pictorial health-monitoring related information as disclosed by Beckers within Fu, Lee, and Kirk for the motivation of providing a patient with an individually tailored program of treatment (see: Beckers: col. 1, lines 7-14).

As per claim 113, Fu, Lee and Kirk do not explicitly teach the claimed display is part of video game device.

Becker teaches a handheld device capable of displaying pictorial health-monitoring related information (see Fig. 2). The Examiner considers the display of the handheld device to be similar to video game device.

The obviousness of combining the teachings of Becker with the teachings of Fu, Lee and Kirk are discussed in the rejection of claim 76, and incorporated herein.

As to claims 136, 159 and 179, they are similar in scope to claim 76 are rejected on the same basis.

8. Claims 165 and 185 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu and Kirk as applied to claims 150 and 170 above, and further in view of Dessertine, Pat. No. 5,016,172.

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As to claims 165 and 185, Fu and Kirk do not explicitly the claimed program instructions further enable a presentation and the patient data receiver to present on the display a graphic representation of at least a portion of the patient data.

However, Dessertine discloses wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data (i.e. patient display unit 5) (col. 3, lines 61-64 and col. 4, lines 29-46 and 52-60). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data as disclosed by Dessertine within Fu and Kirk for the motivation of monitoring patient medication compliance and other patient characteristics remotely (col. 1, line 53 – col. 2, line 7).

9. Claims 111, 118, 121, 122, 130, 143, 144, 152, 157, 162, 172, 177 and 182 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 76, 110 and 116 above, and further in view of Fujimoto, Pat. No. 5,339,821.

As to Claims 111, Fu, Lee, and Kirk do not explicitly disclose the claimed system is configured to cause the presentation of at least one report on the display at a remote patient site.

However, Fujimoto discloses wherein the system is configured to cause the presentation of at least one report on the display at a remote patient (col. 4, lines 48-56). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site as disclosed by Fujimoto within Fu, Lee and Kirk for the motivation of providing a

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medical system and apparatus which permits patients to check or measure the condition of a disease at home (col. 1, line 66 – col. 2, line 5).

As to claims 118, 121, 122, 130, 143, 144, 152, 157, 162, 172, 177 and 182, they are similar in scope to claim 111 and are rejected on the same basis.

10. Claims 119, 131, 141, 154 and 174 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee and Kirk as applied to claims 116 above, and further in view of Examiner's use of Official Notice.

As to Claim 119, Fu, Lee, and Kirk do not explicitly disclose the claimed computer receives the first report after the healthcare professional is identified as an authorized user by as an authorization code.

However, the Examiner takes official notice that it was well known in the computer arts to use personal identification numbers (pin) to authorize users to access systems, programs and stored data on computers. The motivation for using pin numbers was to grant access to data or the computer system to authorized users only, particularly sensitive data or information such as patient medical data. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user within Fu, Lee and Kirk for the motivation stated above.

As to claims 131, 141, 154 and 174, they are similar in scope to claim 119 and are rejected on the same basis.

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11. Claims 135, 160 and 180 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 127 above, and further in view of Examiner's use of Official Notice.

As to Claim 135, Fu, Lee, and Kirk do not explicitly disclose the system of claim 40, wherein the memory is a program cartridge.

However, the Examiner takes official notice that it was well known in the computer arts to use program cartridges to program handheld devices. The motivation was to provide a simple and inexpensive means for providing computer programs that are popular or in demand by a number of users. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the memory is a program cartridge for the motivation stated above.

As to claims 160 and 180, they are similar in scope to claim 135 and are rejected on the same basis.

Response to Arguments

12. Applicant's arguments filed 1/24/07 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the responses dated 1/24/07.

(A) In the remarks, Applicants argue in substance that, (1) Fu, Lee and Kirk fail to teach (d) a second user of the computer to cause user-related data to be transmitted from the central server to the computer, and (e) generation of at least one first report in the computer based on the user-related data collected at the remote user sites as recited in claim 150; (2) Fu, Lee and Kirk fail to teach enabling a patient to choose when to receive a message from the central server as

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recited in claim 111; (3) Fu, Lee and Kirk fail to teach a menu having a display mode, an input mode or a communication mode as recited in claim 121; and (4) Fu, Lee, Kirk and Fujimoto fail to teach a display being part of a video game device as recited in claim 113.

(B) In response to Applicant's argument that, (1) Fu, Lee and Kirk fail to teach (d) a second user of the computer to cause user-related data to be transmitted from the central server to the computer, and (e) generation of at least one first report in the computer based on the user-related data collected at the remote user sites as recited in claim 150. The Examiner respectfully submits that the Lee is relied for teaching at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites (i.e. unit 118a) (reads on "a second user of the computer to cause user-related data to be transmitted from the central server to the computer") (see Fig. 1, col. 11, lines 54-56 and col. 13, lines 42-47). Kirk is relied for teaching a central server that can report results of the analysis of patient (32, Fig. 3) status to a doctor (24, Fig. 2), care provider (20, Fig. 2) or local monitoring services (12, Fig. 1) (see: column 5, lines 40-47). The clearly suggests that health care professional computer (second user of the computer) communicates user related data which is transmitted to the central server as described by Lee and Kirk teaches that a report is generated based on patient analyzed and collected information.

(C) In response to Applicant's argument that, (2) Fu, Lee and Kirk fail to teach enabling a patient to choose when to receive a message from the central server as recited in claim 111. The Examiner respectfully submits Kirk teaches that Kirk teach that the health support unit (30, Fig. 3) interacts with the local central server (38, Fig. 3) receive medication and program schedule

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updates (see: column 5, lines 22-27 and column 3, lines 3-11). In addition, Kirk teaches health support unit (30, Fig. 1) may receive commands from the patient (32, Fig. 1) (see: column 5, lines 7-10). The Examiner considers the commands received by the patient to include selecting when to receive messages (updates) from the central server.

(D) In response to Applicant's argument that, (3) Fu, Lee and Kirk fail to teach a menu having a display mode, an input mode or a communication mode as recited in claim 121. The Examiner respectfully submits that the Fujimoto reference teaches a medical terminal equipment (1, Fig. 2) of the medical apparatus (8, Fig. 2) including a loudspeaker (13, Fig. 2), a liquid crystal display apparatus (14, Fig. 2) serving as display means and operation buttons (15, 16, 17, Fig. 2) for entering a selection (see: column 2, lines 56 to column 3, lines 3). This indicates a display mode, input mode and communication mode as recited in the claimed invention.

(E) In response to Applicant's argument that, (4) Fu, Lee, Kirk and Fujimoto fail to teach a display being part of a video game device as recited in claim 113. The Examiner respectfully submits that the Becker reference has been relied for teaching a handheld device capable of displaying pictorial health-monitoring related information (see Fig. 2). The Examiner considers the display of the handheld device to be similar to video game device.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after


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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Robert Morgan
Patent Examiner
Art Unit 3626